

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VALERIE DUNN,

Plaintiff,

03 Civ. 5445 (GBD) (HBP)

-against-

ORDER

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.
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GEORGE B. DANIELS, DISTRICT JUDGE:

Pro se plaintiff commenced this action challenging a determination by the Commissioner of the Social Security Administration denying her application for disability insurance benefits. Both the plaintiff and the defendant moved for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c). The matter was referred to Magistrate Judge Henry B. Pitman, who issued a Report and Recommendation (“Report”) recommending that both motions for judgment on the pleadings be denied and that the case be remanded for further administrative proceedings. In his Report, Magistrate Judge Pitman advised the parties that any objections to the Report must be filed within ten days. Neither party filed objections to the Report and the time to do so has expired. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

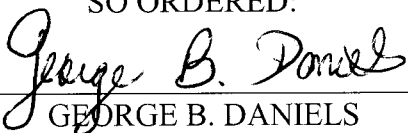
Where there are no objections, the Court may accept the Report provided there is no clear error on the face of the record. Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985); see also, Heisler v. Kralik, 981 F.Supp. 830, 840 (S.D.N.Y. 1997), aff’d 164 F.3d 618 (2d Cir. 1998). After reviewing the Report, the Court finds that the record is not facially erroneous. The administrative law judge failed to sufficiently develop the record. She did not obtain plaintiff’s treating physicians’ RFC assessments and failed to adequately explain her reasons for

disregarding plaintiff's subjective complaints of pain. Judgment on the pleadings is therefore not appropriate, and the case should be remanded for further administrative proceedings.

Accordingly, the Court adopts the Report in its entirety and for the reasons stated therein. The motions for judgment on the pleadings are denied and the case is remanded for further administrative proceedings.

Dated: New York, New York
January 20, 2006

SO ORDERED:



GEORGE B. DANIELS
United States District Judge